

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Valérie DE LA POTERIE)	Group Art Unit: 1615
)	
Application No. 10/821,919)	Examiner: Venkat, Jyothsna A.
)	
Filed: April 12, 2004)	Confirmation No. 2430
)	
For: COSMETIC COMPOSITION)	
HAVING A CERTAIN THERMAL)	
PROFILE)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

VIA EFS WEB

Sir:

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.97(b)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicant brings to the attention of the Examiner the documents on the attached listing. This Information Disclosure Statement is being filed concurrently with a Request for Continued Examination (RCE) in the above-referenced application.

Copies of the listed foreign and non-patent literature documents are attached. Copies of the U.S. patents, patent application publications, co-pending applications and respective office actions are not enclosed as they are available on the Imaged File Wrapper of PAIR.

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003), that an "adverse decision" by another examiner may meet the materiality standard under the amended Rule 56, and thus, Applicants should disclose prior rejections of "substantially similar claim[s]" to the Office. *See also* M.P.E.P. § 2001.06(b). Accordingly, although Applicant is not representing that the Office Actions in the co-pending applications are material to the present application and is not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicant has listed the substantive Office Actions in co-pending applications on the attached form.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

The following is a statement regarding the non-English language documents:

1. **EP 0928 607** - An abstract of the disclosure of this document can be found in the English language Abstract, submitted herewith and listed on the attached Form PTO-SB-08.
2. **EP 0931 476** - An abstract of the disclosure of this document can be found in the English language Abstract, submitted herewith and listed on the attached Form PTO-SB-08. This document is also believed to be related to U.S. Patent No. 6,082,918, also listed on the attached Form PTO-SB-08.

3. **FR 2 827 167** - An abstract of the disclosure of this document can be found in the English language Abstract, submitted herewith and listed on the attached Form PTO-SB-08.

4. **JP 2000-038314** - An abstract of the disclosure of this document can be found in the English language Abstract, submitted herewith and listed on the attached Form PTO-SB-08.

5. **WO 03 007899** - An English language abstract of the disclosure of this document can be found on the front of the document, submitted herewith, and listed on the attached Form PTO-SB-08.

6. **French Search Report for FR 03 04571** - This is the French Search Report for FR 0304571, Examiner Koob, which is a French Priority Application for co-pending U.S. application no. 10/821,920 (Attorney Docket No. 05725.1347).

7. **French Search Report for FR 03 04825** - This is the French Search Report for FR 0304825, Examiner Willekens, which is a French Priority Application for co-pending U.S. application no. 10/821,920 (Attorney Docket No. 05725.1347).

8. **French Search Report for FR 03 51146** - This is the French Search Report for FR 0351146, Examiner Yon, which is a French Priority Application for co-pending U.S. application no. 10/821,920 (Attorney Docket No. 05725.1347).

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claims in the application and Applicant determines that the cited documents do not constitute "prior art" under United States law, Applicant

reserves the right to present to the Office the relevant facts and law regarding the appropriate status of such documents.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: April 9, 2009

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